



7th

AF/3622

Corres. and Mail
BOX AF

Expedited Procedure
Response After Final Rejection

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: McClung, G.L. III
Serial No: 09/375,451
Filed: 08/17/99
For: Improvements To
Business System

§
§ Art Unit: 3622
§
§ Examiner: Alvarez, Raquel
§
§ Atty Docket No: GLM III

**RESPONSE TO OFFICE ACTION MAILED 6/28/2002
& TO ADVISORY ACTION MAILED 08/14/2002**

Box AF
Assistant Commissioner For Patents
Washington, D.C. 20231

RECEIVED
AUG 29 2002
GROUP 3600

Dear Sir:

This is a Response to the Advisory Action Mailed 08/14/2002 and to the Office Action mailed 06/28/2002.

Applicant believes this case depends on a correct interpretation of the only reference cited against the claims, Walker et al, U.S. Patent 6,249,772 (henceforth the "Walker reference") and respectfully asks the Examiner to consider these remarks.

Walker is not directed to providing a price guarantee to a consumer following a purchase. Walker is directed to insuring a consumer that the consumer receives the benefit of a price established before a purchase is finalized.

The text in Walker at Col. 22 lines 12 - 33 does not deal with a real-time store

price that is less than a pre-set established price. The following text of Walker deals with an established price that is less than a store price in a situation in which the customer is charged the **higher** store price:

Additionally, rather than charging the customer the established price in real time, the difference between a store price and the established price could be made to appear as either a rebate on the customer's credit card bill or as a check that the central controller mails or otherwise delivers to the customer. In such a case, the central controller would post the purchase price, the store ID, and the customer's credit card number with the credit card processor and, in particular, in the credit card processor's reservation database (Fig. 7). When a transaction is made that matches a record in the reservation database of the credit card processor, the central controller could bill the store for the difference in price and possibly charge a transaction fee to either the customer's account or the store's account, and thereafter credit the difference to the customer and indicate the same on the customer's bill. (Walker, Col. 22, lines 18 -33; Applicant may previously have misconstrued these words, but they do not deal with or suggest a store price less than an established price.)

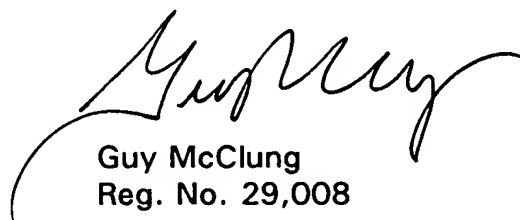
Walker is directed to systems for providing a manufacturer control over retail pricing. Walker has nothing to do with checking the sales price of an item after a sale to provide a consumer a better, lower price. Walker has no teaching or suggestion regarding monitoring sales prices; monitoring sales prices for a predetermined time period after a sale is finalized; or noting any price lower than a price paid.

Walker is directed only to the situation in which the pre-set "established price"

is less than the "store price." Walker does not envision the situation in which the store price is less than the established price. Whether in Walker at the time the sale is made the customer is charged the store price or the established price, there is no teaching or suggestion to monitor sales prices after the sale is finalized. Put another way, Walker could not claim what is now claimed herein — there would be no support in Walker for such claims.

Applicant appreciates the Examiner's consideration of these remarks and would gladly discuss this in a telephone interview.

Respectfully submitted,


Guy McClung
Reg. No. 29,008

Date: 19 August 2002
PMB 347
16690 Champion Forest Drive
Spring, TX. 77379--7023; Phone: 281 893 5244

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to Phone No. 703 872 9327 to Examiner Alvarez to: Box AF, Assistant Commissioner For Patents, Washington, D.C. 20231, on 19 Aug 2002.

Date: 19 Aug 2002


Guy McClung, Reg. No. 29,008

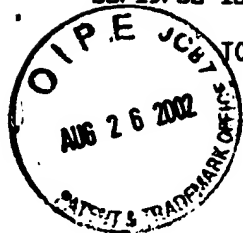
CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with sufficient postage as first class U.S. mail with the United States Postal Service in an envelope addressed to: Assistant Commissioner For Patents, Washington, D.C. 20231, on 19 Aug 2002.

Date: 19 August 2002


Guy McClung, Reg. No. 29,008

Filed 159 PM
19 AUG 02 Guy



TO: Auto-reply fax to 2818932163 COMPANY:

COPY OF PAPERS
ORIGINALLY FILED**Auto-Reply Facsimile Transmission****UNITED STATES
PATENT AND
TRADEMARK OFFICE**

TO:

Fax Sender at 2818932163

Fax Information

Date Received:

8/19/02 2:57:50 PM [Eastern Daylight Time]

Total Pages:

4 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page

=====>

08/19/2002 14:34

=== COVER PAGE ===

TO: EX RAQUEL ALVAREZ

FAX: 17038729327

FROM: GLY MCCLUNG PC

FAX: 2818932163

TEL: 2818935244

COMMENT: CONFIDENTIAL

Received from <2818932163> at 02/19/02 2:57:50 PM [Eastern Daylight Time]

RECEIVED
AUG 29 2002
GROUP 3600